

Flathead County

Planning & Zoning

1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210



PETITION FOR ZONING AMENDMENT

Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.

FEE ATTACHED \$ 1330.00 + 75.00

APPLICANT/OWNER:

1. Name: Mare Lane LLC and Wayne Evert Phone: (406)756-2309
2. Mail Address: 34 Shady Lane
3. City/State/Zip: Kalispell, MT 59901
4 Interest in property (if map amendment): Owners Tract 4X and Open Space

1. Name: BJ Rentals LLC Phone: 253-2401
2. Mail Address: 176 W. Monture Rdg.
3. City/State/Zip: Kalispell, MT 59903
4 Interest in property (if map amendment): Owner Lot 1 and Lot 6

1. Name: Becky Austin Phone: 261-3576
2. Mail Address: 125 South Cedar Drive
3. City/State/Zip: Kalispell, MT 59901
4 Interest in property (if map amendment): Owner of Lot 2

1. Name: Natasha & Travis Cash Phone: (406) 334-3295
2. Mail Address: 127 South Cedar Drive
3. City/State/Zip: Kalispell, MT 59901
4 Interest in property (if map amendment): Owners of Lot 3

1. Name: Ben and Denise Belt Phone: _____
2. Mail Address: 129 South Cedar Drive
3. City/State/Zip: Kalispell, MT 59901
4 Interest in property (if map amendment): Owners of Lot 4

1. Name: Hope and Randy Wamsley Phone: 253-5459
2. Mail Address: 131 South Cedar Drive
3. City/State/Zip: Kalispell, MT 59901
4 Interest in property (if map amendment): Owners of Lot 5

1. Name: ALC Trust #1 Phone: 261-8623
2. Mail Address: 3225 Mcleod Drive Suite 777
3. City/State/Zip: Las Vegas, NV 89121
4 Interest in property (if map amendment): Owner of Lot 7

1. Name: David T. Schettine Jr. Phone: (406)890-3916
2. Mail Address: 137 South Cedar Drive
3. City/State/Zip: Kalispell, MT 59901
4 Interest in property (if map amendment): Owner of Lot 8

Check which applies:



Map Amendment



Text Amendment:

TECHNICAL/PROFESSIONAL PARTICIPANTS:

1. Name: Sands Surveying Inc. Phone: (406) 755-6481
2. Mailing Address: 2 Village Loop
3. City, State, Zip: Kalispell, MT 59901
4. Email: eric@sandssurveying.com

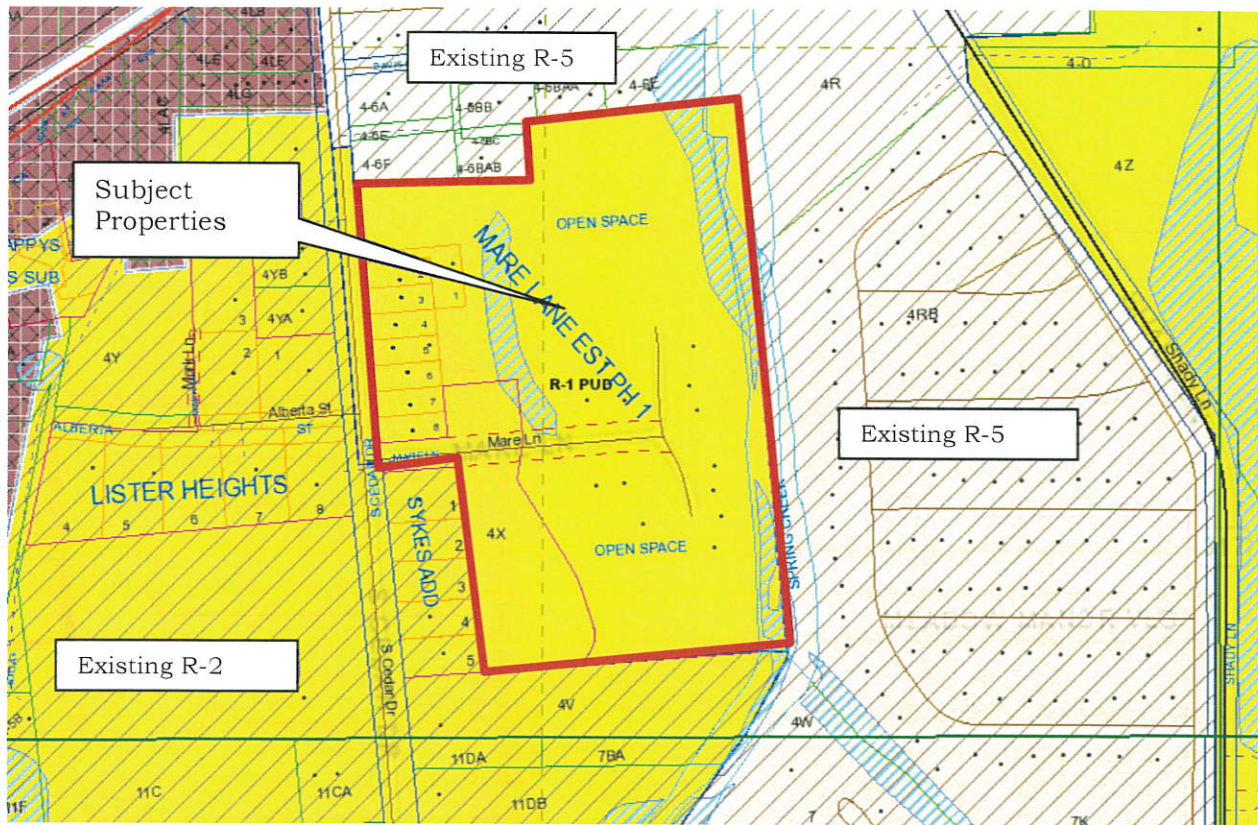
IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:

- A. What is the proposed zoning text/map amendment? N/A

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:

- A. Address of the property: 35 Mare Lane, Kalispell
- B. Legal Description: Assessor's Tract 4X and Lots 1 – 8 and the Open Space Lot of Mare Lane Estates, Phase 1
(Lot/Block of Subdivision or Tract #)
4 - T28N - R21W
Section Township Range
(Attach sheet for metes and bounds) *See attached metes and bounds for the two zoning designations*
- C. Total acreage: 13.36 acres.
- D. Zoning District: Evergreen Zoning District
- E. The present zoning of the above property is: R-1 (Suburban Residential)
- F. The proposed zoning of the above property is: R-5 (Two Family Residential)
- G. State the changed or changing conditions that make the proposed amendment necessary: The property is located in a residential area of Evergreen. The subject property was previously part of the Mare Lane Estates subdivision where the two properties were designated as "future phase" and "open space" through a PUD. The proposed zone change to R-5 will reset the development allowing some development of the open space area as well as the original "future phase" lot.

Figure 1



Source: Flathead County GIS, Zoning Layer

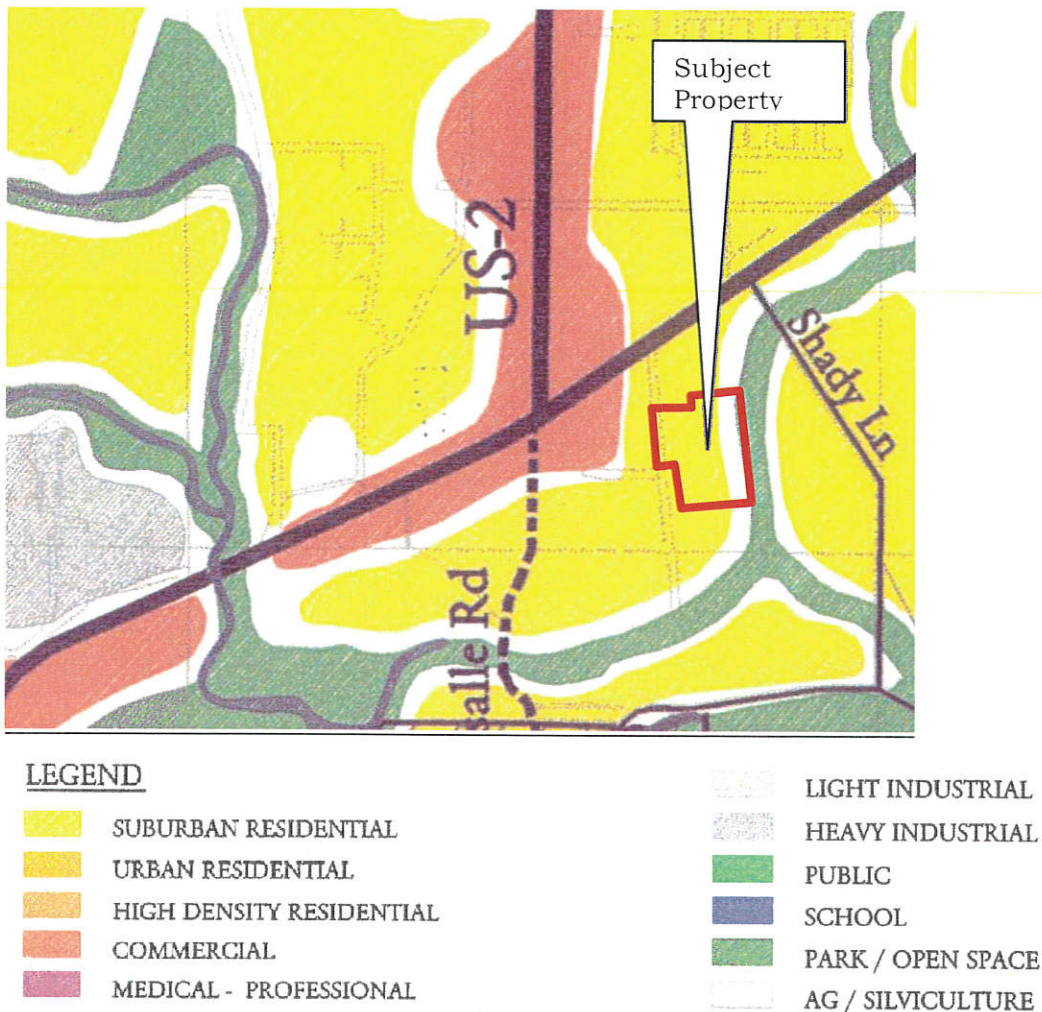
THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND DETAILED EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.

1. Is the proposed amendment in accordance with the Growth Policy/Neighborhood Plan?

The property is located within the boundary of the Kalispell Master Plan Map 2010 which was adopted in 1986. The Master Plan Map designates the property as Suburban Residential (Figure 2). When the Kalispell Master Plan was adopted in 1986, all of Evergreen was on septic systems and only a small area was on Public water. The Evergreen fire district at the time was an all-volunteer department. Much of the commercial area north of K-Mart was residential or logging industry related. Now with public sewer and water service, and a more intense commercial strip, it makes good land use policy to convert the R-1 to a higher density residential classification that is more compatible with the neighboring manufactured home parks, commercial use and the new high density assisted living facility.

As the property is in the old Kalispell Master Plan area, I contacted Jarod Nygren, Planning Director for the City of Kalispell. Mr. Nygren stated that he did not see any problems with the proposed zone change and the urban designation more is suitable for this property.

Figure 2



Kalispell Master Plan Map Year 2010

2. Is the proposed amendment designed to:
 - a. Secure safety from fire and other dangers? The proposed action of the zone change will neither increase nor reduce the dangers of fire, panic, or other hazards. When the property is developed they will most likely need to secure a subdivision review or CUP for the density/use and at that time more details would be known about the use and the services.

The property is within the Evergreen Fire District, has access to the Evergreen Water system which provides fire flow to the systems hydrants. The property is not within the Wildland Urban Interface. The property is served by Flathead County Sheriff's Office for police protection.

The lot designated "Open Space" is within the 100-year floodplain as is much of Evergreen. If the applicant develops anything in this area they will secure the proper permits.

- b. Promote public health, public safety and the general welfare? The property is accessed by South Cedar Drive which is a paved County maintained road. The Flathead County Sheriff's Office provides police protection to Evergreen. The Evergreen Fire District provides fire service to the property. The property is served by Evergreen Water and Sewer infrastructure.

The proposed R-5 zoning designation is better aligned with the higher density urban development that surrounds the property. The property to the north and east are already zoned R-5 and contain manufactured home parks. The property to the south and west are zoned R-2 however just a short distance further to the west is the new Woodlands Senior Living Facility. The proposed zone change will promote compatible use and allow some use of the existing open space lot.

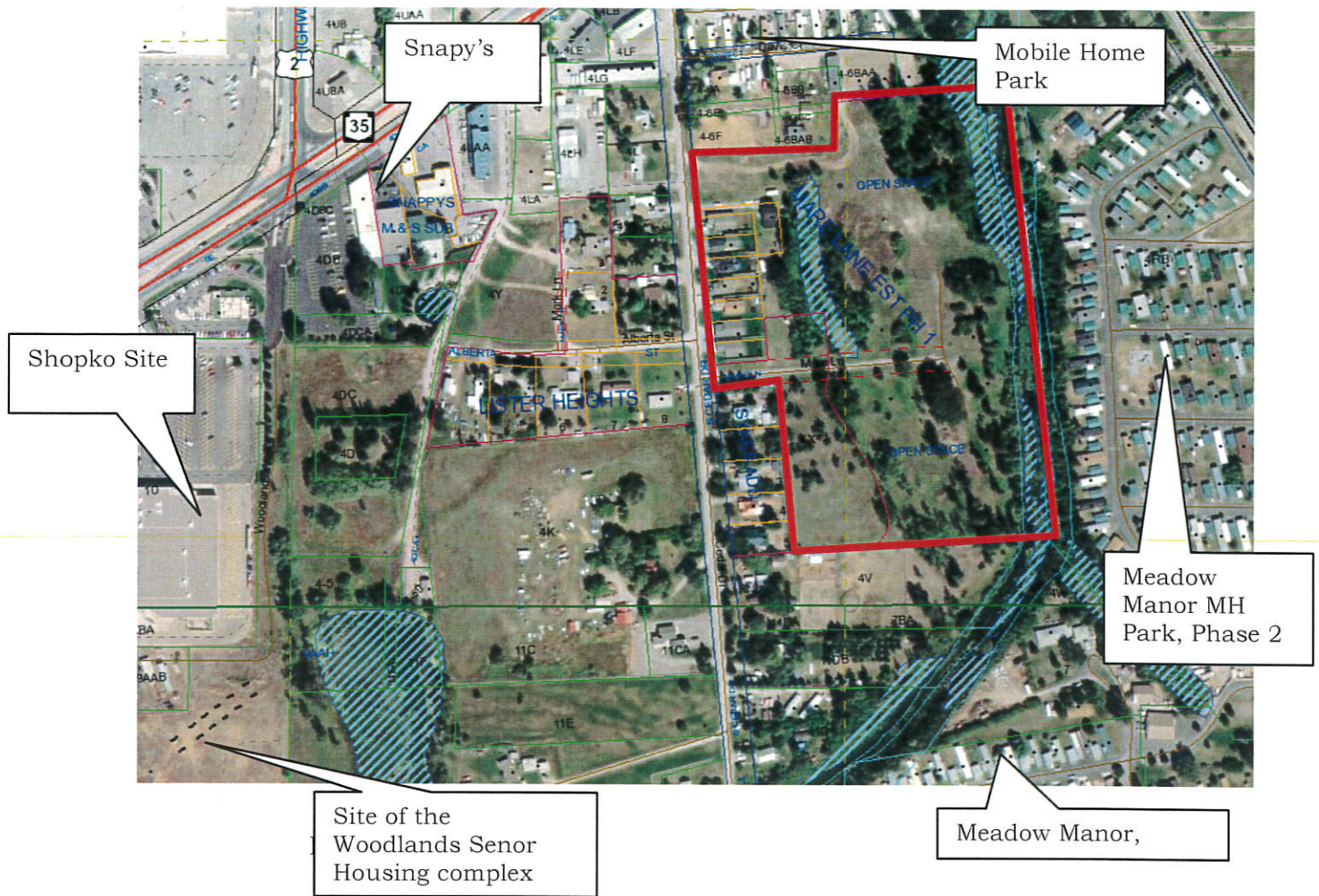
- c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements? The 14+ acres subject to the zone change all access South Cedar Drive which is a paved street maintained by Flathead County. South Cedar road is considers a local road with access to Highway 2 just 800 feet to the north. The property is served by Evergreen Water and Sewer infrastructure

The property is within the Evergreen/Flathead School District. The applicant is hoping to develop Recreational Vehicle spots and/or develop several cabins that could be used by family neither of these use would generate school children to the District. Any subdivision or CUP of the

property would require addition review and approval through the governing bodies.

3. Does the proposed amendment consider:

- a. The reasonable provision of adequate light and air? The R-5 zoning classification requires setbacks of 20-feet front; 5-feet side; and 20-feet rear. The R-1 is the same in the front and rear but requires 20-feet on the side however Lots 1-8 of Mare Lane Estates was developed with a PUD and the sideyard setbacks were reduced. The R-5 will match that of the properties to the north and south that already have R-5 zoning.
- b. The effect on motorized and non-motorized transportation systems? As stated previously, the property has access onto South Cedar Drive which is a paved County maintained road. There are very few pedestrian walkways or sidewalks in Evergreen. The proposed project is considered infill as much of the neighboring properties are fully developed. The proposed zone change should have minimal effect on transportation systems.
- c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities? The subject property is located less than a mile from the Kalispell City limits. The Community of Evergreen is an unincorporated extension of Kalispell in that the commerce, schools, wastewater utilities, transportation routes move between the two entities in a seamless fashion. The proposed urban residential zoning classification of R-5 is compatible with neighboring urban densities as well as the urban densities of the City of Kalispell.
- d. The character of the district and its peculiar suitability for particular uses? The area around the subject parcel includes K-Mart, Auto Dealership, Manufactured Home Park, and Manufactures Home Subdivision. The proposed zoning is suitable for the district



Source: Google Earth –.

Considering the provisions of Spot Zoning and the “Three Part Test” as provided by legal precedent in Little vs. Board of County Commissioners. Spot Zoning is determined by the Court to be an illegal action if the request is found to meet **all** three of the tests. The three tests are as follows:

- i. *The zoning allows a use that differs significantly from the prevailing use in the area.*

Adjacent zoning consist of R-5, B-2, and R-2. The proposed change from R-1 to R-5 is the same or similar to adjacent zoning designations. Much of the neighboring is R-5.

- ii. *The zoning applies to a small area or benefits a small number of separate landowners.*

The proposed zone change applies to 10 properties all of which were part of the original Mare Lane Estates development

- iii. The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and this is in the nature of special legislation.

The zone change would give these lot owners the same zoning that is on many of the neighboring properties.

As presented the proposed zone change application does not meet the three tests for “spot zoning” and therefore should be considered a legal request.

- e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area? This is a residential neighborhood with a mix of densities ranging from tightly developed manufactured home parks and multi-story senior housing to lower density suburban development. With the fully accompaniment of public services, this property and neighboring properties will continue to infill and become more urban. The proposed zone change will preserve the value of buildings in the neighborhood.
4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

The subject property is located approximately a mile east of the Kalispell City Limits. The City has zoned the east side of Kalispell with a mosaic of urban residential, general commercial, and industrial. The proposed urban residential zoning is consistent with urban zoning of the City of Kalispell. Lastly, Jarod Nygren, Planning Director for the City of Kalispell was consulted on the proposed zone change on March 23, 2020 by telephone. Mr. Nygren stated that the proposed zoning is compatible with the City’s long range plans.

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.

Wayne Evert
Owner/Applicant Signature(s)

3-26-20
Date

Owner/Applicant Signature(s)

Date

Lot 1

Robert Runkle

3-25-20

Owner/Applicant Signature(s)

Date

Lot 2

Bucky Austin

3/26/20

Owner/Applicant Signature(s)

Date

Lot 3

RCos

03/23/2020

Owner/Applicant Signature(s)

Date

Lot 4

Denise L. Belt Runkle

03/23/2020

Owner/Applicant Signature(s)

Date

Lot 5

Ken Hunsley

3-26-2020

Owner/Applicant Signature(s)

Date

Lot 6

Robert Runkle

3-25-20

Owner/Applicant Signature(s)

Date

Lot 7

John Doe

03-26-2020

Owner/Applicant Signature(s)

Date

Lot 8

Paul T. Schutte Jr

03/23/2020

Owner/Applicant Signature(s)

Date

APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A pre-application meeting is highly recommended. This can be scheduled at no cost by contacting the Planning & Zoning office. Among topics to be discussed are: Master Plan compatibility with the application, compatibility of proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application.

C. Application fee.

D. The application must be accepted as complete by the Flathead County Planning & Zoning staff prior to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

APPLICABLE TO APPLICATIONS FOR ZONE CHANGE:

A. Application Contents:

1. Completed Zone Change application, including signatures of all property owners applying for zoning map amendment.

IF this is a **MAP** amendment the following are also required:

- i) A map showing the location and boundaries of the property (*vicinity map*).
- ii) A Title Report of the subject property
- iii) **Certified** Adjoining Property Owners List must be submitted with the application (*see forms below*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.